

**BILL #** HB 2103

**TITLE:** state treasurer; independent legal counsel

**SPONSOR:** Crump

**STATUS:** As Introduced

**PREPARED BY:** Eric Billings

### FISCAL ANALYSIS

#### Description

This bill would exempt the State Treasurer’s Office from the requirement to only utilize the Attorney General’s Office legal counsel. The bill also allows the State Treasurer to pay for legal counsel from earnings on assets under management.

#### Estimated Impact

The impact of this bill will depend on the Treasurer’s level of legal service. If the Treasurer used only outside legal counsel, the bill would have a FY 2010 General Fund impact of \$2,200 - \$4,500 at the FY 2008 level of legal services. There would also be a FY 2010 estimated other fund cost of \$4,400 - \$9,100 and an impact to the State Land Endowment Fund of \$3,400 - \$7,100. To the extent that the Treasurer chooses to utilize outside legal services above or below the estimated FY 2010 level of 94 billable hours, the General Fund and other funds may realize a different cost.

The Treasurer’s Office estimates that this bill may result in General Fund savings if the agency no longer has to pay the 35% recovery fee that the Attorney General’s Office applies to monies recaptured as a result of their counsel.

#### Analysis

There are 2 ways that legal services impact the General Fund. First, the Treasurer pays for legal services from their General Fund budget. Second, the Attorney General keeps 35% of any amount recovered through their services.

The Attorney General reports that the Treasurer’s Office registered billable hours totaling 76 in FY 2007, 94 in FY 2008, and 133 year-to-date in FY 2009. This analysis uses the FY 2008 total of 94 billable hours as a base for all estimates.

For an estimate of the hourly costs of private legal counsel the Laffey Matrix 06-07 measure was utilized. The Laffey Matrix was created as the result of a court decision as a means to calculate the proper fee schedule for legal services in the Washington D.C. metro area. The matrix was adjusted to account for the different costs of living in the Phoenix metro area by comparing the Bureau of Labor Statistics’ May 2007 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates Report for the Washington D.C. and Phoenix metro areas. The matrix was also adjusted to account for inflation over the past year and a half by applying the Consumer Price Index for All Urban Consumers measure for the Phoenix/Mesa Metro Area. The resulting fee schedule for Phoenix is provided in *Table 1* below:

<b>Table 1</b>	
<b>Phoenix Metro Legal Service Costs December 2008</b>	
<u>Experience</u>	<u>Hourly Cost in Dollars</u>
20 + years	383.94
11-19 years	338.78
8-10 years	275.54
4-7 years	221.34
1-3 years	185.20

Based on the FY 2010 estimate of 94 billable hours, the Treasurer’s Office could incur outside legal costs of \$17,400 - \$36,100 as a result of this bill (94 hours x \$185.20 = \$17,400 and 94 hours x \$383.94 = \$36,100).

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The bill allows the Treasurer to pay for outside legal services from the Treasurer's Investment Services Account which is comprised of monies apportioned from the investment earnings. Based on the earnings generated in FY 2008, the General Fund would realize a FY 2010 cost of \$2,200 - \$4,500 while other state funds would realize a cost of \$4,400 - \$9,100 and the State Land Endowment Fund would bear a cost of \$3,400 - \$7,100. In FY 2008, approximately 12.5% of earnings generated by the Treasurer's Office went to the General Fund, 42.6% to Local Governments, 25.1% to State Agencies, and 19.8% to the State Land Endowment Fund.

Currently, the Treasurer pays a flat rate of 0.675% of the office's personal services to the Attorney General to provide legal services. In FY 2010, the Treasurer is estimated to expend approximately \$1.6 million in personal services, resulting in a \$10,600 cost for legal counsel. This bill does not exempt the Treasurer from paying the existing Attorney General's charge. Non-Attorney General legal costs incurred under this bill would be in addition to the Attorney General's charge.

A savings to the General Fund may result from reducing the amount of retained recoveries of General Fund monies by the Attorney General's Office. Currently, statute allows the Attorney General to retain 35% of any debts owed to the state that are recovered as a result of the office's legal counsel. The General Fund may realize savings to the extent that the Treasurer can negotiate a lower retained recovery amount with outside legal counsel.

### **Local Government Impact**

If the Treasurer used only outside counsel, Local Governments that invest in the Local Government Investment Pools (LGIP) managed by the Treasurer would bear a share of the costs for hiring outside legal counsel.

3/12/09